

Remarks/Arguments**I. Objections Under 35 U.S.C. §112**

The Examiner has made the reasonable request to define the "transversely apically rounded" flared claws in the specification. This ground of rejection is now moot as applicant has altered the claim language to include the base word from which the offending term was derived, apex.

A claim is supported by a patent application specification when the disclosure within the application reasonably conveys to the artisan that the inventor had possession at the time of filing of the later claimed subject matter. *Ralston Purina Co. v. Far-Mar-Co, Inc.*, 772 F.2d 1570, 1575 (Fed. Cir. 1985). Support for a hammerhead with claws bearing a peripheral rounding can be found in the second complete paragraph of page 4 of Applicant's specification and in greater detail as element 7 of FIG. 2 and FIG. 4A. As a substantial basis of support for the present claim limitations stem from this patent application's drawings, Applicant would like to remind the Examiner that under proper circumstances, drawings alone may provide a supporting written description of an invention. *Vas-Cath v. Mahurkar*, 935 F.2d 1555, 1564 (Fed. Cir. 1991).

Although not objected to, Applicant noticed that "releasably" was repeatedly misspelled. This error has been corrected.

II. Rejection of Claim 20 Under 35 U.S.C. §102

Claim 20 was rejected as anticipated by Te's U.S. Patent Application 6,571,666 ("Te"). To be anticipating, a prior art reference must disclose each and every limitation of the claimed invention, must be enabling, and must describe the claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention. See *Helifix Ltd. v. Blok-Lok, Ltd.*, 208 F.3d 1339, 1346 (Fed. Cir. 2000). Applicant's current claim 20 includes a hammerhead with at least two limitations not

disclosed by Te: a flat side surface, grooves having a rounded interior portion and a partially frustoconical interior portion formed within the flat surface. Support for Applicant's amended claim 20 can be found in the groove limitations of claim 21 and FIGS. 3 and 5, and the FIGS. 1, 2 and 5 (see flat side surface of hammerhead).

Te discloses a groove adapted to hold a nail, but does not disclose the interior surface rounding of Applicant's grooves. Applicant points first to Te's FIG. 3 which illustrates his nail-retention grooves. These grooves, and all grooves disclosed within Te, depict only grooves with three flattened, interior surfaces. Applicant, however, claims grooves having a rounded interior portion and a partially frustoconical interior portion. Thus, Applicant's nail-retention grooves posses a curvature that matches the natural cylindrical contours of nail, which allows improved nail retention and release.

Te does not disclose a flat surface with multiple nail retention grooves on the side portion of his hammerhead as Applicant affirmatively claims. Placing multiple nail retention grooves on the side of a hammerhead allows for superior nail loading capabilities. A flat side surface that extends to the extent of nail-retention grooves permits more facile loading of nails as a curved hammerhead would orient multiple grooves in multiple directions (requiring multiple wrist orientations for loading multiple nail grooves).

Applicant requests allowance of this presently amended claim 20.

III. Rejections Under 35 U.S.C. § 103

A. Claim 23

Claim 23 was rejected under 35 U.S.C. §103 as being unpatentable over Chen's U.S. Design Patent Application No. D534,409 ("Chen") and Hu's U.S. Patent Application No. 6,283,449 ("Hu"). A patent specification, however, is effective as a reference only as of its filing date. 35 U.S.C. § 102(e); *Sun Studs, Inc v. ATA Equip. Leasing, Inc.*, 872 F.2d 978, 983-84 (Fed. Cir. 1989). The Chen reference was filed August 2, 2005 and may not be used as a prior art reference against inventions filed earlier than this date. See M.P.E.P. §§ 2141.01 & 706.02(f)(1)III. Applicant's invention

possesses a national phase filing date of July 21, 2005 and an international filing date of January 21, 2003. The Chen patent is unavailable as a reference.

B. Claim 17

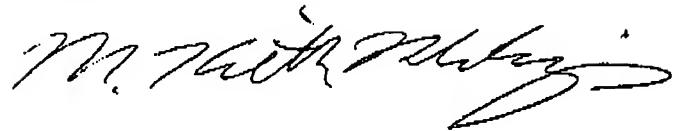
Claim 17 was rejected under 35 U.S.C. §103 as being unpatentable over Chen in view of Hu and in further view of Te. A patent specification, however, is effective as a reference only as of its filing date. 35 U.S.C. § 102(e); *Sun Studs, Inc v. ATA Equip. Leasing, Inc.*, 872 F.2d 978, 983-84 (Fed. Cir.1989). The Chen reference was filed August 2, 2005 and may not be used as a prior art reference against inventions filed earlier than this date. See M.P.E.P. §§ 2141.01 & 706.02(f)(1)III. Applicant's invention possesses a national phase filing date of July 21, 2005 and an international filing date of January 21, 2003. The Chen patent is unavailable as a reference.

From:

12/11/2007 13:43 #065 P.010

Respectfully Submitted,

Date: 12/11/07



M. Keith Blankenship, Esq.
General Counsel, P.C.
6862 Elm Street
Suite 800
McLean, VA 22101
Phone: 703-556-0411
Fax: 703-556-6540
www.generalcounsellaw.com